

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

HOUSEHOLD FINANCE	§	
CORPORATION, III	§	
ITS SUCCESSORS AND ASSIGNS	§	
	§	
	§	
V.	§	CASE NO. 4:12-CV-532
JESSICA DURAN AND ALL	§	Judge Clark/Judge Mazzant
OCCUPANTS	§	

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On November 9, 2012, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that plaintiff's motion to remand [Doc. #4] be granted. On December 14, 2012, defendant filed objections.

On October 1, 2012, defendant, *pro se*, removed this case to this court, asserting that removal was proper based upon diversity of citizenship. The Magistrate Judge issued a report and recommendation that plaintiff's motion to remand [Doc. #4] be granted. The Magistrate Judge found that defendant violated the "no forum defendant rule" because defendant is a citizen of Texas.

Defendant objects, asserting that the parties are diverse. The court agrees that there is diversity; however, defendant fails to address the issue that she is a Texas defendant and plaintiff timely moved to remand the case. Defendant violated the forum defendant rule and plaintiff timely filed a motion to remand. Defendant's objection has no merit.

Defendant next objects to remand asserting that the court has jurisdiction over this action

based upon 28 U.S.C. § 1331 because plaintiff's complaint alleges a cause of action under the laws of the United States. First, defendant's notice of removal only asserts diversity jurisdiction and does not assert that removal was based upon federal question jurisdiction pursuant to section 1331. Second, even if this issue were before the court, plaintiff's complaint does not contain a federal cause of action. The state court action was an eviction proceeding and alleges no federal claims. Plaintiff has not alleged any affirmative claim against defendant for violation of 15 U.S.C. § 1681. Therefore, this objection has no merit.

Defendant's final objection relates to her objection to an award of attorney's fees. However, the Magistrate Judge did not award any attorney's fees in this case.

Having received the report of the United States Magistrate Judge [Doc. #5], and considering the objections thereto filed by defendant [Doc. #8], this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that plaintiff's motion to remand [Doc. #4] is GRANTED and the case is remanded to County Court at Law No. 3 for Collin County, Texas.

So **ORDERED** and **SIGNED** this **11** day of **January, 2013**.



Ron Clark
Ron Clark, United States District Judge